

#21/Response

Hawkins
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David H. Sitrick) <u>Certificate of Transmission under</u> <u>37 CFR 1.8</u>
For:	SYSTEM AND METHODOLOGY FOR MUSICAL COMMUNICATION AND DISPLAY) I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (703.308.7722) on <u>July 29, 2003</u> .
Serial Number:	09/492,218)
Filed:	January 27, 2000)
Examiner:	M. Fletcher)
Art Unit:	2837)
Attorney Docket:	STD 1757)

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(five [5] pages transmitted)

RESPONSE

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Mail Stop Non-fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

JUL 29 2003
TECHNOLOGY CENTER 2800

Dear Sir:

Applicant hereby submits this Response for the Office Action—Date Mailed: May 30, 2003, Paper No. 5, for which a response is due August 30, 2003 by a shortened statutory period for reply set to expire three months from the mailing date of the Office Action.

Claims 1-113 are currently pending in the application. Claims 41-51 are allowed. Claims 1-40, 53-76, 79-96 and 99-113 are rejected. Claims 52, 77, 78, 97 and 98 are objected to.

No new matter has been added. No additional fee is due. Reconsideration is respectfully requested.

Examiner states, "Claims 1-40, and 53-76, 79-96, and 99-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson et al. (5,823,788) in view of Ishii (5,400,687)."

It is respectfully submitted that the references as cited fail to teach that which is set forth by Examiner, and that Examiner is improperly using hindsight to reject Applicant's claims. Moreover, the above combination of references is improper, because there is no basis in either reference that suggests or infers the desirability of their combination.

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Examiner states, "Lemelson et al. disclose a music display system . . ." However, nowhere does Lemelson et al. suggest, infer or mention a music display system "for providing a local visual display presentation representative of the selected musical composition," as in Applicant's Claim 1.

Additionally, ". . . music data responsive to the communications . . . as discussed in column 3 lines 29-35 . . . , "as cited by Examiner, is not taught, suggested or even inferred by Lemelson et al.

Regarding ". . . lines 55-64 . . . , " as cited by Examiner, the reference states, ". . . text, graphics and video information for questions and supplementary instructional materials." The examples actually contained in Lemelson et al. are limited to questions and answers, statistics and grading. The display of a music composition is not even inferred, let alone mentioned in Lemelson.

Examiner states, ". . . representative of the selected musical composition responsive to the stored data. The system further comprises an input device (13(s)) responsive to a performance by the user of the displayed composition for providing an output of user performance data." However, not only is this quote not present in any reference of record, it is not even suggested. Lemelson et al. is totally unrelated to gathering music performance data responsive to user performance of a displayed musical composition. As explained in Lemelson et al., the microphone is provided for the student to speak and can include speech recognition.

Examiner states, ". . . processing means (CPU 30) coupled to the memory means (31) for processing the music data to provide presentation data. . . representative of the editing in the memory means as discussed in column 4, lines 25-36. . . "

This is a total misstatement of column 4, lines 25-36 which verbatim states, "FIGS. 2 and 3, the students stations 12(s) may further include other devices for enabling a student to input information or to otherwise control his or her assigned station 12(s). For example, the student display 16(s) may provide an arrangement for inputting information, in particular by means of a touch-screen, light pen, stylus or other arrangement whereby a student may, for example, select one or more entries displayed on the screen. The student may, by means of a light pen or stylus, register a written (textual) answer, in, for example, essay form by drawing the light pen or stylus over the display screen to effect printed or written textual characters or graphical indicia."

Nowhere does Lemelson et al. or any other reference of record suggest, alone or in combination, infer or mention *music data or processing the music data* "for providing a local visual display presentation representative of the selected musical composition," as in Applicant's pending Claim 1. Nor do they suggest, alone or in combination, infer or mention, "storing data representative

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of a display presentation for the music selection; communicating the data to the at least one display subsystem; processing the communicated data for display; displaying a video presentation of the music selection on the at least one display subsystem, responsive to the processing of the communicated data," as in Applicant's pending Claim 66. Nor do they suggest, alone or in combination, infer or mention, "A method of providing a video display presentation of a selected performance composition and of a user's performance responsive to the video display presentation, said method comprising: storing performance composition data representative of the selected performance composition; generating a video display output responsive to the performance composition data for the selected performance composition; displaying the video display presentation responsive to the video display output. . . ." as in Applicant's pending Claim 86. Nor do they suggest, alone or in combination, infer or mention, "A performance system for use by a plurality of users in providing a performance of a display presentation of a selected composition," as in Applicant's pending Claim 87. Nor do they suggest, alone or in combination, infer or mention, "A music display system comprising: memory means for storing music data; processing means coupled to the memory means for processing the music data to provide presentation data; a presentation apparatus to provide a video presentation on a video display responsive to the presentation data . . .," as in Applicant's pending Claim 94. Nor do they suggest, alone or in combination, infer or mention, ". . . means for editing the video presentation to create a modified video presentation and storing data representative of the editing in the memory means; wherein the processing means provides modified presentation data responsive to the data representative of the editing, and wherein the presentation apparatus is responsive to the modified presentation data to display the modified video presentation," as in Applicant's pending Claim 94. Nor do they suggest, alone or in combination, infer or mention, ". . . a communications subsystem providing an interface for communication of music data for storage in and retrieval from the memory means; processing means coupled to the memory means for processing the music data to provide presentation data; and a presentation apparatus to provide a video presentation on a video display responsive to the presentation data," as in Applicant's pending Claim 94.

Examiner states, "*The system is housed in a common housing to form a self-contained unit as seen in figure 4.*" This statement is also incorrect and a misstatement of the facts. Fig. 4 is a "functional block diagram of the instructor base station 11 . . ." (Lemelson et al., col. 6, lines 11-12) Nowhere does Lemelson mention, infer or suggest a common housing to form a self-contained unit.

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It is respectfully submitted that Applicant's own teachings are improperly used a basis of hindsight rejection of Applicant's own claims.

Examiner states, "The system further comprises means for synchronizing the presentation on the plurality of local visual display presentations of the selected musical composition, wherein the system can be used in a music environment to provide the same as discussed in column 6, lines 40-58." However, this is factually incorrect and a misstatement. Col. 6, lines 40-58 refer solely to the playback of audio music through a speaker (50). Nowhere does Lemelson et al. suggest, infer or mention any visual display presentation, let alone "a local visual display presentation representative of the selected musical composition," as in Applicant's Claim 1. Nor does it suggest, infer or mention, "... displaying a video presentation of the music selection on the at least one display subsystem, responsive to the processing of the communicated data, as in Applicant's pending Claim 66. Nor does it suggest, infer or mention, "... generating a video display output responsive to the performance composition data for the selected performance composition. . . , as in Applicant's pending Claim 86. Nor does it suggest, infer or mention, "... a display apparatus for providing a display presentation of the selected composition responsive to the computing subsystem and the composition data," as in Applicant's pending Claim 87. Nor does it suggest, infer or mention, "... memory means for storing music data: processing means coupled to the memory means for processing the music data to provide presentation data. . . , as in Applicant's pending Claim 94. Nor does it suggest, infer or mention, "a communications subsystem providing an interface for communication of music data for storage in and retrieval from the memory means; processing means coupled to the memory means for processing the music data to provide presentation data; and a presentation apparatus to provide a video presentation on a video display responsive to the presentation data," as in Applicant's pending Claim 95.

Examiner states, "It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Ishii with the apparatus of Lemelson et al., because Ishii provide small enhancements that overall make Lemelson et al. more efficient with more ability for performance in editing as well as well as displaying musical composition." As discussed herein and above, Examiner's reliance upon Lemelson is without basis on the technical merits. Therefore, the combination of Lemelson et al. with any other reference is an improper combination with respect to technical merit. Furthermore, Ishii does not teach or suggest of any networking or communications capabilities. Ishii does not suggest or disclose any means for communications interface for communicating the data for the music selection as in Applicant's Claim 66, or an interface for

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communication of music data as in Claim 95. Furthermore, Ishii does not infer a system for a plurality of individual workstations for use by a plurality of display presentations of a selected musical composition, as in Applicant's Claim 1. Ishii embodies a stand-alone appliance with a memory card (resident in the unit) providing the music data. Ishii does not teach communications or networking capability at all.

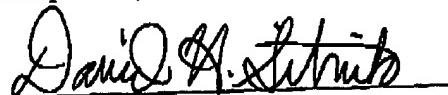
Claims 41-51 are allowed.

Claims 52, 77, 78, 97, and 98 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, in light of the above remarks, it is respectfully submitted that all objections as to Claims 52, 77, 78, 97, and 98, as being dependent upon a rejected base claim, are traversed and overcome.

Applicant respectfully submits that Applicant has successfully traversed and overcome Examiner's objections and rejections, and that all claims 1-113 are in proper form for allowance. Reconsideration is requested taking the form of a Notice of Allowance.

The Examiner is invited to directly communicate with the undersigned, if it will in any way facilitate the prosecution of the application.

Respectfully submitted,



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July 29, 2003

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